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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,326	08/23/2001	Frederick W. Ryan JR.	F-268	1636

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,326

Applicant(s)

RYAN

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 8-15, 23, 25-28, 31-33 and 36-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 16-22, 24, 29, 30, 34, 35 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Election/Restrictions

Applicant's election without traverse of claims 1,6,7,16,17-22,29,30,34,35 and 39 in the reply filed on 1/14/2005 is acknowledged.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1,6,7,16,17-22,29,30,34,35,and 39 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant has not incorporated any technological art into the claims to give them sufficient statutory basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,6,7,16,24,29,30,39 are rejected under 35 U.S.C. 102(e) as being anticipated by Golden et al.

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Golden et al. disclose a) collecting by sellers information regarding remote sales made by buyers (col. 7 substation 30 collects data from sellers 16A-16 C); b) calculating securely the correct taxing jurisdictions sales and/or use tax to be paid by buyers for remote sales (col. 7 lines 27 et seq. disclose calculating tax due on the transaction at 16); c) collecting by sellers from buyers the correct sales and/or use tax (POS terminals 16 inherently take payments including taxable amount) d) transmitting by a seller to a taxing jurisdiction the aggregate totals of sales and use tax transactions (col. 7 lines 35 et seq. reports are sent to taxing authority 38 ; and e) collecting/paying by a taxing jurisdiction/seller the correct sales and/or use tax received by sellers (col. 7 lines 49-52 money owed to taxing authority can be transferred to the taxing authority by electronic funds transfer from the seller's account.

Re claim 6: since the full fees are taken by the POS 16 then the official receipt 24 will insure reporting to the taxing jurisdictions the taxes that have been collected.

Re claims 7,29,30: col. 7 lines 46-52 discloses filing tax reports e.g. returns for sellers with the taxing jurisdictions for the taxes that have been collected.

Re claim 16,39: the handing of money or credit card payment at the POS is deemed to be a response from buyers indicating acceptance of the sale.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,6,7,16,17-22, 24,29,30,34,35 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golden et al. in view of Hurta et al.

Golden et al. disclose the subject matter of claims 1,6,7,16,24,29,30,39 as set forth above. However they do not disclose an antifraud step whereby purchasing by one of the taxing jurisdictions goods and/or services from the Seller occurs; transmitting from the seller to the purchasing taxing jurisdiction a log of specific sales and use tax transactions, and comparing the taxes charged by the seller for the goods and/or services purchased by the seller with the log of transactions.

However, Hurta et al. do disclose an antifraud checking step whereby the paying tax customer (transponder owner) submits his transponder payment log to the authority and the authority analyses these against its receipts numbers see col. 7 lines 33-40. It would be obvious to modify the method of Golden et al to include the log check feature of Golden et al which obviously must include some given check such as the red tagged purchase by an identifiable entity the motivation being the prevention of fraud.

Re claim 18: the method of Hurta et al. determines if all charges have been reported.

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RE claim 19:col. 7, line 39, states the improper behavior is established e.g. fraud from the comparison.

RE claim 20 the interrogation of the payors payment mechanism in Hurta et al. results in a determination of user has paid all tolls which is an obvious modified use for tax paying for the motivation set forth above.

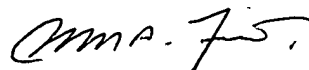
Re claims 21, 22 Official notice is taken regarding the use of an agent or alias to conduct a transaction without the identity of the real purchaser being known see WO 122351.

Re claim 34 Official Notice is taken of the practice of comparing transaction type, dollar and volume to other like transactions to validate it. See US 6714918

Claim 35: Hurta et al. discloses determining breaks in transaction sequences which is read as evidence of cancelled transactions breaks.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

A handwritten signature in black ink, appearing to read "J.A. Fischetti".

Joseph A. Fischetti
Primary Examiner
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